IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3430 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 NO

THE GOVT.PHOTO REGISTRY

Versus

THE STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3430 of 1986

MRS KETTY A MEHTA for Petitioner No. 1

MR SANDEEP N. BHATT AGP for Respondent No. 1-2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 14/09/2001

C.A.V. JUDGEMENT

1. The union of employees of the Government Photo Registry has, by this petition under Article 226 of the

Constitution, called into question the validity of the Government Photo Registry Senior Clerk/Store Keeper-cum-Film Recorder Recruitment Rules, 1985 and the Photo Registrar Class III in the Subordinate Services of the Registration Department Recruitment Rules, 1982.

2. Initially, the Department of Photo Registry was a part of the Photo Litho Press under the Department of Industries, Mines and Power. In the year 1980, the common set up of the Photo Litho Press and the Government Photo Registry was bifurcated and the Photo Registry was placed under the Revenue Department. By a Resolution dated 18.3.1985, the Government constituted a committee for appointment and promotion on several posts in the supervisory and non-supervisory class-III cadres. The posts in class-III cadre were broadly divided into technical and non-technical posts wherein the hierarchy of posts on the technical side consisted of packer-cum-sorter, junior technical assistant, senior technical assistant, enlarger operator, head enlarger and foreman; whereas on the non-technical side was the hierarchy of time-keeper, junior clerk, senior clerk and head clerk. There was, however, also a third hierarchy placed on the technical side in which the posts were those of storekeeper-cum-film recorder, photo registrar and supervisor. The grievance of the petitioner, which is an association of the employees working on the technical posts in the Photo Registry, is that even as the post of storekeeper-cum-film recorder and the promotional posts above him were technical posts, the aforesaid Rules provided for appointment and promotion on these posts from amongst the junior clerks, typists or time-keepers working on the non-technical posts. The making of junior clerks, typists, time-keepers and numberers eligible for promotion to the post of storekeeper-cum-film recorder to the exclusion of the employees working on the technical posts is alleged to be illegal and arbitrary. It was also alleged that even as the appointees on the clerical jobs were afforded two channels of promotion in the technical as well as non-technical posts, similar opportunity was denied to the employees appointed on the lower ranks of technical posts, such as, packer-cum-sorter, junior technical assistant or enlarger operator. The aforesaid recruitment rules also afforded an opportunity of earlier promotion to the post of photo registrar to the non-technical employees even as the work and duties of photo registrar required technical knowledge and experience, according to the petition. On this basis and grounds, the petitioner has prayed to declare the aforesaid rules ultra vires and illegal.

3. The Photo Registrar Class-III in the Subordinate Services of Registration Department Recruitment Rules, 1982, inter alia, provides for promotion to the post of photo registrar Class-III from amongst storekeeper-cum-film recorder in the Government Photo Registry. And the Government Photo Registry Senior Clerk/Store Keeper-cum-Film Recorder Recruitment Rules, 1985, inter alia, provides for promotion to the post of senior clerk/storekeeper-cum-film recorder from amongst junior clerks, English or Gujarati typists, time keepers and numberers in the officer of the Government Photo Registry. Thus, the promotional avenue for the posts of senior clerk/storekeeper-cum-film recorder and from that to the post of Photo Rregistrar is available to the employees employed on the non-technical side. Defending these provisions, it is averred in the affidavit of the Deputy Secretary, Revenue Department that the post of film recorder was created in the year 1985; that there are, in fact, three streams in which separate promotional avenues are provided and the government servants would have the option to choose any one of them. Other channels of promotion are provided in each stream having regard to the duties and work attached to the particular posts. Though the post of Photo Registrar is classified as a technical post, it is a non-supervisory post and is, in fact, not a technical post. It is also averred by the Deputy Inspector General of Registration that even prior to the bifurcation of the Department, junior clerks were getting promotion to the post of senior clerk/store keeper-cum-film recorder under the recruitment rules for the time being in force. The duty list of store keeper-cum-film recorder would clearly reveal that his duties are of clerical nature. It is stated that the duties of Photo Registrar are also of clerical nature. Photo Registrar has to, under the provisions of the Bombay Registration Act, attest the documents as true copies. By a Resolution dated 5.4.1988, the post of senior clerk on the clerical side has been converted into that of storekeeper-cum-film recorder, whereupon, the post of senior clerk has become non-existent. By annexing the duty lists of the employees on the technical side and the non-technical side, it is sought to be shown that they are appropriately classified as such. It is also stated that on the ladders of promotion the posts on the technical side matched the posts on the non-technical side in the matter of pay scale. It was, therefore, submitted that the posts of storekeeper-cum-film recorder was rightly and all throughout considered as clerical posts and that arbitrariness or unreasonableness could not be attributed to the Rules under challenge.

4. In view of the facts and circumstances as above and going through the duty lists for the respective posts, it was seen that the duties attached to the post of storekeeper-cum-film recorder and the photo registrar essentially involved clerical and non-technical work, which could hardly be entrusted to a person qualified or experienced in technical tasks. The allegations of the petitioner that the film-recorder had to collect micro films, observe the effect of atmosphere and season and chemical reaction thereof on the films, regulate the room temperature of the air-conditioned room and watch temperature meter etc. are not only denied but a separate staff for the purpose is stated to have been employed. Therefore, the rules in question are in no way found to be unreasonable, arbitrary or discriminatory. The learned counsel on either side have not relied upon any legal dicta in support of their submissions.

5. In the result, the challenge to the aforesaid Rules on the grounds canvassed by the petitioner fails and the petition is accordingly dismissed with no order as to costs. Rule is discharged.

Sd/-
(D.H.Waghela, J.)

(KMG Thilake)